

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Mortgage Broker License of:

No. 09F-BD003-BNK

3 **SHALYNN K. LOAR dba OAK HARBOR**
4 **FINANCIAL AND SHALYNN K. LOAR,**
5 **OWNER**

2152 S. Vineyard., Ste. 117
Mesa, AZ 85210

**ORDER OF SUMMARY SUSPENSION
AND NOTICE OF HEARING TO REVOKE**

6 Respondents.

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O.A.H.

8 The Arizona Department of Financial Institutions (the "Department") hereby finds that
9 Shalynn K. Loar dba Oak Harbor Financial and Shalynn K. Loar ("Respondents") have violated the
10 provisions of the Arizona Revised Statutes ("A.R.S."), Title 6 as set forth below and finds that the
11 public health, safety and welfare require emergency action pursuant to A.R.S. §§ 6-905 and 41-
12 1092.11(B).

13 **THEREFORE, IT IS ORDERED** to summarily suspend the Arizona mortgage broker
14 license held by Respondents, effective immediately, pending the proceedings for revocation or other
15 action commenced this date. **This suspension is effective immediately.**

16 EFFECTIVE this 4th day of August, 2008.

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19 Felecia A. Rotellini
20 Superintendent of Financial Institutions

21 **NOTICE OF HEARING AND COMPLAINT**

22 PLEASE TAKE NOTICE that, pursuant to A.R.S. §§ 6-138, and 41-1092.02, the above-
23 captioned matter will be heard through the Office of Administrative Hearings, an independent
24 agency, and is scheduled for September 18, 2008, at 9:00 a.m., at the Office of Administrative
25 Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the "Hearing").

26 The purpose of the Hearing is: (1) to determine whether grounds exist to suspend or revoke

1 Respondents' mortgage broker license; (2) to order any other remedy necessary or proper for the
2 enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S. §§ 6-
3 123 and 6-131; and (3) to impose a civil money penalty pursuant to A.R.S. § 6-132.

4 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of
5 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied
6 or expressed, to the Director of the Office of Administrative Hearings or the director's designee to
7 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the
8 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office
9 of Administrative Hearings has designated Lewis Kowal at the address and phone number listed
10 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative
11 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the
12 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final
13 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law
14 Judge is specifically prohibited from entering.

15 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
16 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
17 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
18 Administrative Hearings.

19 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
20 counsel, or to proceed without counsel when submitting evidence, to have a reasonable opportunity
21 to inspect all documentary evidence, to cross-examine witnesses, to present evidence and witnesses
22 in support of his/her interests, and to have subpoenas issued by the Administrative Law Judge to
23 compel attendance of witnesses and production of evidence. Pursuant to A.R.S. § 41-1092.07(B),
24 any person may appear on his or her own behalf or by counsel.

25 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
26 made by a court reporter or by electronic means. Any party that requests a transcript of the

1 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

2 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
3 Attorney General Kelly LaPrade, (602) 542-7726, 1275 West Washington, Phoenix, Arizona 85007.

4 **NOTICE OF APPLICABLE RULES**

5 The hearing will be conducted pursuant to A.A.C. R20-4-1201 through R20-4-1220 and the
6 rules governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through
7 R2-19-122. A copy of these rules is enclosed.

8 Pursuant to A.A.C. R20-4-1209, Respondents shall file a written answer **within twenty (20)**
9 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Respondents'
10 position or defense and shall specifically admit or deny each of the assertions contained in this
11 Notice of Hearing. If the answering Respondents are without or are unable to reasonably obtain
12 knowledge or information sufficient to form a belief as to the truth of an assertion, Respondents shall
13 so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted.
14 When Respondents intend to deny only a part or a qualification of an assertion, or to qualify an
15 assertion, Respondents shall expressly admit so much of it as is true and shall deny the remainder.
16 Any defense not raised in the answer is deemed waived.

17 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Respondents will be**
18 **deemed in default** and the Superintendent may deem the findings in this Notice of Hearing as true
19 and admitted and the Superintendent may take whatever action is appropriate, including (1)
20 suspension or revocation of Respondents' license; (2) any other remedy necessary or proper for the
21 enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S. §§ 6-
22 123 and -131; and (3) imposing a civil money penalty pursuant to A.R.S. § 6-132.

23 Respondents' answer shall be mailed or delivered to the Arizona Department of Financial
24 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
25 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
26 Arizona 85007 and to Assistant Attorney General Kelly LaPrade, Consumer Protection & Advocacy

1 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

2 **Persons with disabilities may request reasonable accommodations such as interpreters,**
3 **alternative formats, or assistance with physical accessibility.** Requests for special
4 accommodations must be made as early as possible to allow time to arrange the accommodations. If
5 accommodations are required, call the Office of Administrative Hearings at (602) 542-9826.

6 FINDINGS

7 1. Respondent Shalynn K. Loar dba Oak Harbor Financial (hereinafter "Oak Harbor
8 Financial") is an Arizona Sole Proprietorship authorized to transact business in Arizona as a
9 mortgage broker, license number MB 0905633, within the meaning of A.R.S. §§ 6-901, *et seq.* The
10 nature of Oak Harbor Financial's business is that of making, negotiating, or offering to make or
11 negotiate loans secured by Arizona real property, within the meaning of A.R.S. § 6-901(6).

12 2. Respondent Shalynn K. Loar ("Mr. Loar") is the owner of Oak Harbor Financial.
13 Mr. Loar is authorized to transact business in Arizona as a mortgage broker within the meaning of
14 A.R.S. § 6-903(E).

15 3. Before conducting business as a mortgage broker, Oak Harbor Financial is
16 required to have a surety bond, deposited with the Superintendent, pursuant to A.R.S. § 6-903(G), in
17 the required amount, pursuant to A.R.S. § 6-903(H).

18 4. On or about April 8, 2008 and April 11, 2008, the Department received a Notice of
19 Cancellation from RLI Insurance Company, stating that Oak Harbor Financial's surety bond, number
20 RSB4031446, in the amount of fifteen thousand dollars (\$15,000.00) would be cancelled thirty (30)
21 days after the receipt of the Notice by the Department (effectively May 8, 2008).

22 5. On or about April 8, 2008, the Department attempted to send Mr. Loar a letter
23 notifying him that a lapse in bond coverage is a serious violation and that outlined the steps
24 necessary to maintain Oak Harbor Financial's mortgage broker's license in good standing. The
25 letter was sent certified, article number 7001 1140 0000 3473 6328 to Mr. Loar's address of record
26 with the Department. The certified letter was returned to the Department on April 16, 2008 marked

1 “return to sender.”

2 6. On or about April 17, 2008, the Department successfully faxed Mr. Loar the same
3 letter notifying him that a lapse in bond coverage is a serious violation and outlining the steps to
4 maintain the mortgage broker license in good standing to his facsimile number of record with the
5 Department at 480-635-4001.

6 7. Mr. Loar failed to respond to the Department’s facsimile and failed to obtain the
7 required surety bond.

8 8. Oak Harbor does not have the required surety bond in order to conduct business as
9 a mortgage broker.

10 9. The conduct described above constitutes an immediate threat to the public health,
11 safety, and welfare warranting immediate suspension of Respondents’ mortgage broker license
12 because Respondents are conducting business in Arizona as a licensed mortgage broker without the
13 required surety bond.

14 10. The mortgage broker license of Oak Harbor is suspended.

15 11. Conduct described above constitutes grounds for revocation pursuant to A.R.S. § 6-
16 905(A)(3).

17 LAW

18 1. Pursuant to A.R.S. Title 6, Chapter 9, the Superintendent has the authority and duty to
19 regulate all persons engaged in the mortgage broker business and with the enforcement of statutes,
20 rules, and regulations relating to mortgage brokers.

21 2. By the conduct set forth above in the Complaint, Oak Harbor Financial and Mr. Loar
22 violated the following:

23 a. A.R.S. § 6-903(G) by failing to maintain the required surety bond; and

24 3. Respondents have not conducted business in accordance with the law and violated
25 Title 6, Chapter 9 and the rules relating to this chapter, which are grounds for the suspension or
26 revocation of Respondents’ license pursuant to A.R.S. § 6-905.

4. The violations, set forth above, constitute grounds for the pursuit of any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S. §§ 6-123 and 6-131.

5. Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for each day.

WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the above described violations or other grounds for disciplinary action, the Superintendent may: (1) suspend or revoke Oak Harbor Financial and Mr. Loar's mortgage broker license pursuant to A.R.S. § 6-905; (2) order any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona under A.R.S. §§ 6-123 and 6-131; and (3) impose a civil money penalty pursuant to A.R.S. § 6-132.

DATED this 4th day of August, 2008.

Felecia Rotellini
Felecia A. Rotellini
Superintendent of Financial Institutions

ORIGINAL of the foregoing filed this 4th
day of August, 2008, in the office of:

Felecia Rotellini
Superintendent of Financial Institutions
Arizona Department of Financial Institutions
ATTN: Susan Longo
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

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1 COPY mailed/delivered same date to:

2 Lewis Kowal, Administrative Law Judge
3 Office of the Administrative Hearings
4 1400 West Washington, Suite 101
Phoenix, AZ 85007

5 Kelly LaPrade, Assistant Attorney General
6 Attorney General's Office
7 1275 West Washington
Phoenix, AZ 85007

8 Robert D. Charlton, Assistant Superintendent
9 Richard Fergus, Licensing Manager
10 Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

11 AND COPY MAILED SAME DATE, by
12 Certified Mail, Return Receipt Requested to:

13 Shalynn K. Loar, Owner
14 Oak Harbor Financial
15 1819 E. Southern
#D10
Mesa, AZ 85204

16 Shalynn K. Loar, Owner
17 2152 S. Vineyard
Ste. 117
Mesa, AZ 85210

18 Shalynn K. Loar, Owner
19 3724 S. Coach House
Gilbert, AZ 85297

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